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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

EXPLANATION OF REVENUE TITLE ("HIGHWAY REVENUE ACT OF 1987") TO H.R. 2 (EXTENSION OF HIGHWAY TRUST FUND TAXES)

As Approved by the Committee on Ways and Means

JANUARY 8, 1987

Prepared for use of the Committee on Ways and Means

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INTRODUCTION

This document is an explanation of the committee amendment approved by the Committee on Ways and Means on January 6, 1987, to extend the present-law highway-related excise taxes and the Highway Trust Fund expenditure authority for five years (through September 30, 1993). The committee amendment is to be offered as the revenue title to H.R. 2, the Surface Transportation and Uniform Relocation Assistance Act of 1987, when the bill is considered by the House of Representatives.

This committee explanation of the revenue title to H.R. 2 is intended to be a part of the official legislative history of the committee amendment.

The first part is a summary of the committee amendment and background. The second part is the explanation of the provisions of the committee amendment. The third part presents the estimated budget effects of the committee amendment and the effects on the revenues to the Highway Trust Fund, as well as the vote of the committee. The fourth part is the statutory language of the committee amendment. The last part shows the changes in the existing law made by the committee amendment.

I. BACKGROUND AND SUMMARY

A. Background on Legislation

H.R. 2, as introduced on January 6, 1987, provides a five-year extension of the Highway Trust Fund (HTF) authorizations (fiscal years 1987–1991). The present law HTF authorizations, as enacted in the Surface Transportation Assistance Act of 1982, generally expired after September 30, 1986. The present-law excise taxes and authority to spend from the Trust Fund are scheduled to expire after September 30, 1988.

During the 99th Congress, the House of Representatives passed a bill, H.R. 3129, which would have provided a five-year extension of the current highway excise taxes (through September 30, 1993) and a five-year reauthorization for Highway Trust Fund expenditure programs (fiscal years 1987–1991). The Senate amendment to that bill would have provided a four-year extension of the taxes and trust fund authorizations. The conference committee on H.R. 3129 tentatively agreed to a five-year authorization extension, but reached no final agreement on tax or trust fund and other provisions before the 99th Congress adjourned.

B. Summary of Committee Amendment

Present-law highway excise taxes and trust fund

Excise taxes are imposed on gasoline, diesel and other motor fuels, trucks, truck trailers, heavy tires, and heavy highway vehicles. Revenues from these highway-related excise taxes are deposited in the Highway Trust Fund. Revenues equivalent to one cent per gallon from the taxes on highway motor fuels go into the Mass Transit Account in the Highway Trust Fund. The other highway excise tax revenues go into the Highway Account in the Trust Fund.

The Highway Trust Fund taxes are currently scheduled to expire after September 30, 1988. (See Table in Part II, below.) Also, authority to spend from the Highway Trust Fund expires after September 30, 1988. Deposits of pre-October 1, 1988, excise tax liabilities will continue to go into the Trust Fund through June 30, 1989.

Committee amendment

The committee amendment includes the following provisions:

(1) The present-law Highway Trust Fund excise taxes, and the authority to spend from the Trust Fund, are extended for five years (through September 30, 1993). Revenues from these taxes will continue to be deposited into the Trust Fund for an additional five years (through June 30, 1994).

(2) The Highway Trust Fund statute is updated to reflect trust fund authorization purposes in H.R. 2.

(3) A technical amendment to the retail excise tax on certain trucks and trailers is included clarifying the application of that tax in the case of leased trucks and trailers.

(4) Revenue Rulings 85–196, 1985–2 C.B. 205, and 86–43, 1986–1 C.B. 317, are made inapplicable to retail sales of certain trucks and trailers acquired by retail dealers before January 1, 1986.

II. EXPLANATION OF COMMITTEE AMENDMENT

A. Extension of Highway Trust Fund Excise Taxes

Present Law

Highway excise taxes

Excise taxes are imposed on gasoline, diesel and other motor fuels, trucks, truck trailers, heavy tires, and heavy highway vehicles. Revenues from these highway-related excise taxes are deposited in the Highway Trust Fund. The taxes currently are scheduled to expire after September 30, 1988. Deposits of pre-October 1, 1988, excise tax liabilities will continue to go into the Trust Fund for an additional nine months (through June 30, 1989).

The table below shows the present-law tax rate schedule for the Highway Trust Fund excise taxes.

PRESENT-LAW HIGHWAY TRUST FUND EXCISE TAXES

(Through September 30, 1988)

Tax (and Code section)	Tax rate
Motor fuels:	
Gasoline (sec. 4081)	9 cents per gallon
Special motor fuels (sec. 4041(b))	9 cents per gallon
Diesel fuel (sec. 4041(a))	15 cents per gallon
Trucks and trailers:	
Trucks (over 3,000 lbs.) and trailers (over 26,000 lbs.) (sec. 4051)	12 percent of retail price
Tires for highway vehicles (sec. 4071):	40 lbs. or less—no tax 40–70 lbs.—15 cents/lb. over 40 lbs. 70–90 lbs.—$4.50, plus 30 cents/lb. over 70 lbs. Over 90 lbs.—$10.50, plus 50 cents/lb. over 90 lbs.
Use tax on heavy highway vehicles (sec. 4481):	Under 55,000 lbs.—no tax 55,000–75,000 lbs.—$100, plus $22/1,000 lbs. over 55,000 Over 75,000 lbs.—$550

Application of retail excise tax to leased trucks and trailers

The excise tax on trucks and trailers was changed from a manufacturers excise to a retail excise as part of the Surface Transportation Assistance Act of 1982. On April 5, 1983, the Treasury Department adopted temporary regulations providing that the tax was to be imposed at the time an initial lease was entered into (i.e., such leases were treated as a first retail sale) (i) in the case of trucks and trailers to be leased for a period in excess of 50-percent of their useful life, or (ii) if a lease for any duration was to be entered into which provided an option for purchase at less than fair market value.

In September 1985, Treasury amended its regulations to provide that, in the case of leased vehicles, the tax would be imposed on sale by the manufacturer to the lessor. In response to a letter from the original Congressional sponsors of the 1982 legislation protesting this change, Treasury stated that legislation would be required to effect imposition of the tax on leased vehicles as provided in its 1983 regulations.[1]

Determination of gross vehicle weight for computation of tax

The retail excise tax applies to trucks having a gross vehicle weight in excess of 33,000 pounds and to trailers having such a weight in excess of 26,000 pounds. Gross vehicle weight generally has been defined as the maximum loaded weight at which a taxable vehicle is capable of operating. The Internal Revenue Service has ruled that the addition by retail dealers of readily attachable parts such as tires and axles that reduce gross vehicle weight below the taxable weight threshold is ignored in determining liability for the tax in the case of vehicles sold after September 30, 1986. (*See* Rev. Rul. 85–196, 1985–2 C.B. 205 and Rev. Rul. 86–43, 1986–1 C.B. 317.)

Reasons for Change

Extension of highway revenue taxes

H.R. 2 ("Surface Transportation and Uniform Relocation Assistance Act of 1987") provides Federal-aid highway authorizations from the Highway Trust Fund for fiscal years 1987–1991. The Committee on Ways and Means is aware that the provisions governing authorizations from the trust fund would require reduction in highway spending commitments beginning on October 1, 1986, unless action is taken to provide further funding for the Trust Fund. The committee believes that continued funding for the building and maintenance of our Nation's highway system is an important national objective and that a five-year extension of the present Highway Trust Fund excise taxes is, therefore, appropriate at this time.

Application of excise tax to leased trucks and trailers

The committee believes that, in the case of long-term leases of trucks and trailers, the lease of the truck or trailer is essentially

[1] Letter from Assistant Secretary of the Treasury (for Tax Policy) J. Roger Mentz to Rep. J.J. Pickle, dated September 29, 1986.

equivalent to the first retail sale. Because the tax is determined on an *ad valorem* basis (i.e., 12 percent of retail price), allowing the tax to be imposed on the sale price to the lessor, instead of by reference to a retail sales price, may result in an unfair competitive advantage for lease transactions. The committee amendment corrects this problem by treating the lease as the first retail sale in such cases and imposing the tax based on a constructive price equivalent to the price at which like vehicles are sold at retail.

Explanation of Provisions

Extension of highway excise taxes

The committee amendment extends the present Highway Trust Fund excise taxes for five additional years, through September 30, 1993. (See current taxes and rates in the table, above.) Revenues from these taxes will continue to be deposited into the Trust Fund through June 30, 1994 (i.e., for five additional years).

Application of retail excise tax to leased trucks and trailers

The committee amendment includes a technical modification to the retail excise tax on heavy trucks and trailers as that tax applies to certain vehicles to be leased pursuant to long-term leases. Under the amendment, the entering of a long-term lease is treated as a taxable first retail sale in certain cases. Thus, the retail excise tax is imposed at that time rather than upon the sale of the taxable vehicle by the manufacturer to the lessor. The amendment defines as long term any lease having a term (including renewal periods) of one year or more.

The amendment provides that unless a lessor certifies (in a manner prescribed by the Secretary of the Treasury) that the taxable vehicle is to be leased pursuant to a long-term lease, tax is imposed on the sale to the lessor. In such cases, the tax is determined by reference to the price paid by the lessor.

The amendment provides additionally that, except as provided in Treasury Department regulations, a second, "backup" tax is imposed on a vehicle on which tax is initially imposed upon sale to a lessor if the vehicle is leased pursuant to a long-term lease or is sold at retail within one year of the first sale. The backup tax is imposed at the regular 12-percent tax rate and, in the case of long-term lease transactions, is determined using the constructive sales price rules, described below. Lessors are liable for the backup tax in the same manner as retail dealers are liable for the basic 12-percent tax under present law.

The Treasury Department is authorized to prescribe regulations exempting from the backup tax certain second sales or leases occurring within one year of an initial taxable sale. For example, if a common carrier not engaged in the business of re-selling or leasing trucks re-sells a truck from its fleet within one year of purchase the backup tax will not be imposed where the second sale or the lease was not anticipated at time of the first taxable sale.

The constructive sales price rules of present law also are clarified by the committee amendment to provide that, in the case of long-term leases treated as retail sales, the tax is determined based upon a constructive price equal to the sum of the following:

(1) The price for which the lessor acquired the truck or trailer;

(2) The cost of all modifications made to the truck or trailer during the period beginning on the date the lessor acquired the vehicle and ending on the date that is six months after the first day of the term of the long-term lease; and

(3) A presumed percentage mark-up established by the Treasury Department for the type of vehicle involved that reflects the difference between the manufacturer's sales price and an arm's-length retail sales price of vehicles of the type involved.

Conforming amendments are made extending the new back-up tax to retail sales occurring within one year after imposition of the truck and trailer excise tax on a sale by a manufacturer to a retail seller who fails to provide required certifications of an intent to resell the vehicle at retail.

Further, the committee intends that the Treasury Department will prescribe form language for use in complying with the certification requirements of the present Treasury regulations, as continued under the committee amendment. The committee intends that this form language be sufficiently succinct that it can be incorporated into pre-printed purchase orders and invoices as a separately stated item.

Determination of gross vehicle weight

The committee amendment provides that Revenue Ruling 85–196 and Revenue Ruling 86–43 do not apply in determining gross vehicle weight for first retail sales of trucks and trailers acquired in inventory by a retail dealer before January 1, 1986, continuously held in such dealer's inventory through September 30, 1986, and sold by such dealer after September 30, 1986.

Effective Dates

The highway excise tax extension provisions of the committee amendment apply to taxable transactions occurring after September 30, 1988, and before October 1, 1993. The technical amendment to the retail excise tax on certain trucks and trailers as applied to leased vehicles and the amendments overriding Revenue Rulings 85–196 and 86–43 are effective on the date of the bill's enactment.

B. Highway Trust Fund Expenditure Authority

Background and Present Law

Overview

The Highway Trust Fund was originally established in 1956. The Trust Fund and the related highway excise taxes have been extended four times since 1970: a five-year extension in the Federal Aid Highway Act of 1970 (from September 30, 1972 through September 30, 1977), a two-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), a five-year extension in the Surface Transportation Assistance Act of 1978 (through September 30, 1984), and a four-year extension in the Surface Transportation Assistance Act of 1982 (through September 30, 1988, or fiscal years 1985–1988).

The Highway Trust Fund authorizations in the 1982 Act generally were for fiscal years 1983–1986. Thus, the revenues deposited in the Trust Fund lag behind the authorization period by two years. This is because of the lead time required between the time a project is authorized or obligated and the time when money is needed to pay for it.

An anti-deficit provision (i.e., the "Byrd Amendment") requires that the highway apportionments be reduced when unfunded authorizations exceed estimated Trust Fund receipts (tax revenues and interest earned by the Fund) in the following 24-month period.

Trust Fund expenditure purposes

In the 1982 Act, the Highway Trust Fund statute was codified in the Internal Revenue Code (sec. 9503), effective January 1, 1983. The 1982 Act established two Accounts within the Highway Trust Fund: the Highway Account and the Mass Transit Account. Amounts may be paid from the Highway Trust Fund through September 30, 1988, as provided in appropriation Acts, to meet obligations incurred in carrying out the purposes of the Trust Fund. Obligations may be incurred for the purposes specified in the Highway Revenue Act of 1956, the Surface Transportation Assistance Act of 1982, or any law enacted thereafter, for a general purpose authorized under these Acts as in effect on December 31, 1982. Thus, any new general expenditure purpose from the Trust Fund requires a Code amendment.

Highway Account expenditures

The general highway-related programs authorized from the Highway Trust Fund include the following:

- Interstate highway construction and resurfacing and repair
- Federal-aid highways, including primary and secondary systems, and urban systems
- Forest and public lands highways, scenic highways, parkways, Indian roads
- Highway hazard elimination projects
- Bridge replacement and rehabilitation
- Emergency (disaster) relief
- Rail crossings and demonstration projects
- Traffic control and traffic signal demonstration projects
- Intermodal urban demonstration projects
- Carpool and vanpool grants
- Pedestrian walkways on highway rights of ways and bikeways
- Highway-related safety grants
- Motor Carrier safety grants
- Highway safety research and development
- National Highway Traffic Safety Administration for a share of traffic safety programs

- Certain highway-related administrative costs

Mass Transit Account expenditures

The Mass Transit Account in the Trust Fund is financed from the revenue equivalent of one cent of the Tax on highway motor fuels. Amounts in the Mass Transit Account are available for making capital expenditures authorized under section 21(a)(2) of the Urban Mass Transportation Act. An anti-deficit provision is included so that unfunded transit authorizations may not exceed estimated account receipts for the following 12 months (compared to 24 months for the Highway Account).

Trust Fund Authorizations in H.R. 2

H.R. 2 provides for a five-year authorization of Highway Trust Fund expenditure programs (Highway and Mass Transit Accounts) for fiscal years 1987–1991. (The current trust fund authorization programs generally extend through fiscal year 1986).

Highway and highway safety program (Highway Account) authorizations from the Trust Fund under H.R. 2 fiscal years 1987–1991 total $70.0 billion ($14.0 billion per year).

Mass Transit Account authorizations from the Trust Fund under H.R. 2 amount to $1.1 billion for fiscal year 1987, and $1.8 billion per year for fiscal years 1988–1991, or a total of $8.3 billion over the five-year period.

H.R. 2 authorizes $5 million per year out of the Trust Fund for fiscal years 1987–1991 for billboard and sign removal costs. The bill also authorizes a total of $10 million per year from the Trust Fund for the five years for university transportation research centers ($5 million out of the Highway Account and $5 million out of the Mass Transit Account). Previously, any such amounts were authorized out of the general fund of the Treasury.

Reasons for Change

The Committee on Ways and Means agrees that expenditure authority for the Highway Trust Fund should be extended for five years (through September 30, 1993) to parallel the five-year Highway Trust Fund authorizations (Highway Account and Mass Transit Account) included in H.R. 2 and the five-year extension of the highway excise taxes in the committee amendment (discussed in II.A., above).

Explanation of Provisions

The committee amendment provides a five-year extension of the authority to make expenditures out of the Highway Trust Fund (through September 30, 1993).

The committee amendment also updates the Trust Fund statute to reflect the trust fund authorization purposes included in H.R. 2 (e.g., billboard and sign removal costs and university transportation research centers).

Effective Dates

The provision extending the trust fund expenditure authority is effective for the period October 1, 1988, through September 30, 1993. The updating of the Trust Fund statute is effective on the date of enactment.

C. Trade-Related Provision of H.R. 2 Buy American Restrictions

The Committee on Ways and Means is very concerned about the Buy American requirements in the Surface Transportation Act and the amendments to increase these restrictions in section 130 of H.R. 2. These provisions would add cement from Canada or Mexico to the existing prohibition on the use of other foreign products in Federally-funded highway projects and increase the domestic content requirements for the purchase of buses, railcars, and other rolling stock. These Buy American restrictions have a clear and direct impact on imports and affect our overall reciprocal trade relations and future trade agreements, particularly with Canada. Therefore, the committee believes such restrictions are inappropriate in this Act and intends to deal with them in connection with any future consideration of extension of the Highway Trust Fund.

III. BUDGET EFFECTS OF COMMITTEE AMENDMENT AND VOTE OF THE COMMITTEE

A. Budget Effects

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the budget of the committee amendment.

The committee amendment with respect to the five-year extension of current highway excise taxes will not effect net fiscal year budget receipts, as the extension of present-law Highway Trust Fund excise taxes is included in the baseline budget assumption for budget estimating purposes by the Congressional Budget Office. The provisions with respect to the application of the truck retail excise tax in the case of certain leased trucks and tailers and application of the retail tax to certain inventories acquired before January 1, 1986 are estimated to reduce fiscal year budget receipts by a negligible amount.

The committee amendment is projected (based on CBO's August 1986 forecast assumptions) to provide $74.0 billion in tax revenues to the Highway Trust Fund for fiscal years 1988–1993. In addition, the Trust Fund will earn interest on investments of its cash balance.

B. Vote of the Committee

In compliance with clause 2(l)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means on the motion to report the committee amendment. The committee amendment was approved by voice vote.

IV. STATUTORY LANGUAGE OF COMMITTEE AMENDMENT

The statutory language of the committee amendment to H.R. 2 approved by the Committee on Ways and Means is as follows:

TITLE V—HIGHWAY REVENUE ACT OF 1987

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1987".

SEC. 502. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND TAXES AND RELATED EXEMPTIONS.

(a) EXTENSION OF TAXES.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1993":

(1) Section 4041(a)(3) (relating to special fuels tax).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(e)(1) (as amended by the Tax Reform Act of 1986 and section 521(a)(1)(B) of the Superfund Revenue Act of 1986).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) EXTENSION OF EXEMPTIONS, ETC.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking our "1988" each place it appears and inserting in lieu thereof "1983":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(f)(3) (relating to exemption for farm use).

(3) Section 4041(g) (relating to other exemptions).

(4) Section 4221(a) (relating to certain tax-free sales).

(5) Section 4483(f) (relating to termination of exemptions for highway use tax).

(6) Section 6420(h) (relating to gasoline used on farms).

(7) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) (as in effect before its redesignation by section 1703(c) of the Tax Reform Act of 1986).

(8) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(9) Section 6427(m) (relating to fuels not used for taxable purposes) (as in effect before its redesignation by section 1703(e)(1) of the Tax Reform Act of 1986).

(c) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—

(1) Paragraph (3) of section 4041(k) of such Code (relating to fuels containing alcohol) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(2) Paragraph (4) of section 4081(c) of such Code (relating to gasoline mixed with alcohol), as amended by the Tax Reform Act of 1986, is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(d) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Paragraph (1) of section 6412(a) of such Code (relating to floor stocks refunds) is amended—

(A) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(B) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Paragraph (2) of section 6156(e) of such Code (relating to installment payments of tax on use of highway motor vehicles) is amended by striking out "1988" and inserting in lieu thereof "1993".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsections (b), (c), and (e) of section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) are each amended—

(1) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of such Code (relating to expenditures from Highway Trust Fund) is amended by striking out "or" at the end of subparagraph (B) and by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) authorized to be paid out of the Highway Trust Fund under the Surface Transportation and Uniform Relocation Assistance Act of 1987, or

"(D) hereafter authorized by law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on the date of the enactment of the Surface Transportation and Uniform Relocation Assistance Act of 1987."

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

"(1) by striking out "1988" and inserting in lieu thereof "1993", and

"(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

SEC. 504. CERTAIN TRANSFERS FROM HIGHWAY TRUST FUND TO BE MADE PROPORTIONATELY FROM MASS TRANSIT ACCOUNT.

Subsection (e) of section 9503 of the Internal Revenue Code of 1986 (relating to establishment of Mass Transit Account) is amended by adding at the end thereof the following new paragraph:

"(5) PORTION OF CERTAIN TRANSFERS TO BE MADE FROM ACCOUNT.—

"(A) IN GENERAL.—Transfers under paragraphs (2), (3), and (4) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred under this section to the Highway Account (after the application of paragraph (2)) and the Mass Transit Account; except that any such transfers of the extent attributable to section 6427(g) shall be borne only by the Highway Account.

"(B) HIGHWAY ACCOUNT.—For purposes of subparagraph (A), the term 'Highway Account' means the portion of the Highway Trust Fund which is not the Mass Transit Account."

SEC. 505. TREATMENT OF LONG-TERM LESSORS OF HEAVY TRUCKS AND TRAILERS.

(a) INITIAL TAX NOT IMPOSED ON SALE TO LONG-TERM LESSORS.—Paragraph (1) of section 4052(a) of the Internal Revenue Code of 1986 (defining first retail sale) is amended by striking out "other than for resale" and inserting in lieu thereof "other than for resale or leasing in a longterm lease".

(b) CONSTRUCTIVE SALES PRICE IN THE CASE OF LONG-TERM LEASE.—Subsection (b) of section 4052 of such Code (defining price) is amended by adding at the end thereof the following new paragraph:

"(3) LONG-TERM LEASE.—

"(A) IN GENERAL.—In the case of any long-term lease of an article which is treated as the first retail sale of such article, the tax under this subchapter shall be computed on a price equal to—

"(i) the sum of—

"(I) the price at which such article was sold to the lessor, and

"(II) the cost of any parts and accessories installed by the lessor on such article before the first use by the lessee or leased in connection with such long-term lease, plus

"(ii) an amount equal to the presumed markup percentage of the sum described in clause (i).

"(B) PRESUMED MARKUP PERCENTAGE.—For purposes of subparagraph (A), the term 'presumed markup percentage' means the average markup percentage of retailers of articles of the type involved, as determined by the Secretary."

(c) BACKUP TAX.—Section 4052 of such Code is amended by adding at the end thereof the following new subsection:

"(e) BACKUP TAX.—

"(1) IN GENERAL.—If—

"(A) any vehicle which contains an article taxable under section 4051(a) is sold by any person, or is leased by any person in a long-term lease, before such vehicle has been used for periods aggregating 1 year or more, and

"(B) such sale or lease is not the first retail sale of such vehicle,

there is hereby imposed a tax on such person equal to the amount determined under paragraph (2).

"(2) AMOUNT OF TAX.—The amount of the tax determined under this paragraph shall be equal to the excess, if any, of—

"(A) the amount of tax which would be imposed by section 4051 if the sale or lease referred to in paragraph (1) were the first retail sale of the article, over

"(B) the amount of the tax imposed by section 4051 on the first retail sale of such article.

"(3) TAX NOT TO APPLY IN CERTAIN CASES.—The Secretary shall by regulations provide that paragraph (1) shall not apply to specified types of sales and leases where the application of such paragraph is not necessary to carry out the purposes of this subsection."

(d) LONG-TERM LEASE DEFINED.—Section 4052 of such Code is amended by adding at the end thereof the following new subsection:

"(f) LONG-TERM LEASE.—For purposes of this section, the term 'long-term lease' means any lease with a term of 1 year or more. In determining a lease term for purposes of the preceding sentence, the rules of section 168(i)(3)(A) shall apply."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 506. APPLICATION OF CERTAIN REVENUE RULINGS.

Revenue Rulings 85–196 and 86–43 shall not apply to any vehicle acquired by a retail dealer before January 1, 1986, continuously held in such dealer's inventory through September 30, 1986, and sold by such dealer after September 30, 1986.

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE AMENDMENT

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the Committee amendment, as approved by the Committee on Ways and Means, are shown as follows (existing law proposed by omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 31—RETAIL EXCISE TAXES

* * * * * * *

Subchapter A—Special Fuels

* * * * * * *

SEC. 4041. IMPOSITION OF TAX.

(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

(1) * * *

* * * * * * *

(3) TERMINATION.—On and after October 1, [1988,] *1993,* the taxes imposd by this subsection shall not apply.

(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE; REDUCTION IN TAX FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

(1) * * *

(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

(A) * * *

* * * * * * *

(C) TERMINATION.—On and after October 1, [1988,] *1993,* subparagraph (A) shall not apply.

* * * * * * *

(f) EXEMPTION FOR FARM USE.—

(1) * * *

* * * * * * *

(3) TERMINATION.—Except with respect to the taxes imposed by subsection (d), on and after October 1, [1988,] *1993,* paragraph (1) shall not apply.

(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

(1) On any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term "nonprofit educational organization" means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. Except with respect to the taxes imposed by subsection (d), paragraphs (2) and (4) shall not apply on and after October 1, [1988] *1993.*

* * * * * * *

(k) FUELS CONTAINING ALCOHOL.—

(1) * * *

* * * * * * *

(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after [December 31, 1992.] *September 30, 1993.*

* * * * * * *

Subchapter B—Heavy Trucks and Trailers

* * * * * * *

SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

(a) * * *

* * * * * * *

(c) TERMINATION.—On and after October 1, [1988,] *1993,* the taxes imposed by this section shall not apply.

* * * * * * *

SEC. 4052. DEFINITIONS AND SPECIAL RULES.

(a) FIRST RETAIL SALE.—For purposes of this subchapter—

(1) IN GENERAL.—The term "first retail sale" means the first sale, for a purpose other than for resale *or leasing in a long-term lease,* after manufacture, production, or importation.

* * * * * * *

(b) DETERMINATION OF PRICE.—
(1) * * *

* * * * * * *

(3) LONG-TERM LEASE.—

(A) IN GENERAL.—In the case of any long-term lease of an article which is treated as the first retail sale of such article, the tax under this subchapter shall be computed on a price equal to—

(i) the sum of—

(I) the price at which such article was sold to the lessor, and

(II) the cost of any parts and accessories installed by the lessor on such article before the first use by the lessee or leased in connection with such long-term lease, plus

(ii) an amount equal to the presumed markup percentage of the sum described in clause (i).

(B) PRESUMED MARKUP PERCENTAGE.—For purposes of subparagraph (A), the term "presumed markup percentage" means the average markup percentage of retailers of articles of the type involved, as determined by the Secretary.

* * * * * * *

(e) BACKUP TAX.—

(1) IN GENERAL.—If—

(A) any vehicle which contains an article taxable under section 4051(a) is sold by any person, or is leased by any person in a long-term lease, before such vehicle has been used for periods aggregating 1 year or more, and

(B) such sale or lease is not the first retail sale of such vehicle,

there is hereby imposed a tax on such person equal to the amount determined under paragraph (2).

(2) AMOUNT OF TAX.—The amount of the tax determined under this paragraph shall be equal to the excess, if any, of—

(A) the amount of tax which would be imposed by section 4051 if the sale or lease referred to in paragraph (1) were the first retail sale of the article, over

(B) the amount of the tax imposed by section 4051 on the first retail sale of such article.

(3) TAX NOT TO APPLY IN CERTAIN CASES.—The Secretary shall by regulations provide that paragraph (1) shall not apply to specified types of sales and leases where the application of such paragraph is not necessary to carry out the purposes of this subsection.

(f) LONG-TERM LEASE.—For purposes of this section, the term "long-term lease" means any lease with a term of 1 year or more. In determining a lease term for purposes of the preceding sentence, the rules of section 168(1)(3)(A) shall apply.

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CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

PART II—TIRE

* * * * * * *

SEC. 4071. IMPOSITION OF TAX.

* * * * * * *

(d) TERMINATIONS.—On and after October 1, [1988,] *1993,* the taxes imposed by subsection (a) shall not apply.

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PART III—PETROLEUM PRODUCTS

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Subpart A—Gasoline

* * * * * * *

SEC. 4081. IMPOSITION OF TAX.

(a) * * *

* * * * * * *

(c) GASOLINE MIXED WITH ALCOHOL.—

(1) * * *

* * * * * * *

(4) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after [December 31, 1992.] *September 30, 1993.*

* * * * * * *

(e) TERMINATION.—

(1) HIGHWAY FUND FINANCING RATE.—On and after October 1, [1988,] *1993,* the Highway Trust Fund financing.

* * * * * * *

Subchapter G—Exemptions, Registration, Etc.

* * * * * * *

SEC. 4221. CERTAIN TAX-FREE SALES.

(a) GENERAL RULE.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121 or section 4081 (at the Highway Trust Fund financing rate)) on the sale by the manufacturer (or under section 4051 on the first retail sale) of an article—

(1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture.

(2) for export, or for resale by the purchaser to a second purchaser for export,

(3) for use by the purchaser as supplies for vessels or aircraft,

(4) to a State or local government for the exclusive use of a State or local government, or

(5) to a nonprofit educational organization for its exclusive use,

but only if such exportation or use is to occur before any other use. Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064. In the case of taxes imposed by section 4051, or 4071, paragraphs (4) and (5) shall not apply on or after October 1, [1988.] *1993.*

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CHAPTER 36—CERTAIN OTHER EXCISE TAXES

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Subchapter D—Tax on Use of Certain Vehicles

* * * * * * *

SEC. 4481. IMPOSITION OF TAX

(a) * * *

* * * * * * *

(a) PERIOD TAX IN EFFECT.—The tax imposed by this section shall apply only to use before October 1, [1988.] *1993.*

SEC. 4482. DEFINITIONS.

(a) * * *

* * * * * * *

(c) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

(1) * * *

* * * * * * *

(4) TAXABLE PERIOD.—The term "taxable period" means any year beginning before July 1, [1988.] *1993.* and the period which begins on July 1, [1988,] *1993,* and ends at the close of September 30, [1988.] *1993.*

* * * * * * *

(d) SPECIAL RULE FOR THE TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, [1988,] *1993,* the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent.

SEC. 4483. EXEMPTIONS.

(a) * * *

* * * * * * *

(f) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, [1988.] *1993.*

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Subtitle F—Procedure and Administration

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

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Subchapter A—Place and Due Date for Payment of Tax

* * * * * * *

SEC. 6156. INSTALLMENT PAYMENTS OF TAX ON USE OF HIGHWAY MOTOR VEHICLES.

(a) * * *

* * * * * * *

(e) SECTION INAPPLICABLE TO CERTAIN LIABILITIES.—This section shall not apply to any liability for tax incurred in—

(1) April, May, or June of any year, or

(2) July, August, or September of [1988.] *1993.*

* * * * * * *

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6412. FLOOR STOCKS REFUNDS.

(a) IN GENERAL.—

(1) TIRES AND GASOLINE.—Where before October 1, [1988,] *1993,* any article subject to the tax imposed by section 4071 or 1081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, [1988,] *1993,* if claim for such credit or refund is filed with the Secretary on or before March 31, [1989,] *1994,* based upon a request submitted to the manufacturer, producer, or importer before January 1, [1989,] *1994,* by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, [1989,] *1994* reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to gasoline in retail stocks held at the place where intended to be

sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline.

* * * * * * *

SEC. 6420. GASOLINE USED ON FARMS.

(a) * * *

* * * * * * *

(h) TERMINATION.—Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, [1988.] *1993.*

* * * * * * *

SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES, USED BY LOCAL TRANSIT SYSTEMS, OR SOLD FOR CERTAIN EXEMPT PURPOSES.

(a) * * *

* * * * * * *

(i) EFFECTIVE DATE.—Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, [1988.] *1993.*

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SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.

(a) * * *

* * * * * * *

(g) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

(1)* * *

* * * * * * *

(5) VEHICLES TO WHICH SUBSECTION APPLIES.—Except as provided in paragraph (6), this subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, [1988.] *1993.*

* * * * * * *

(n) TERMINATION OF SUBSECTIONS (a), (b), (c), (d), (g) AND (h).—Except with respect to taxes imposed by section 404(d) and section 4081 at the Leaking Undergound Storage Tank Trust Fund financing rate, subsections, (a), (b), (c), (d), (g) and (h) shall only apply with respect to fuels purchased before October 1, [1988.] *1993.*

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

* * * * * * *

SEC. 9503. HIGHWAY TRUST FUND.

(a) * * *

(b) TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, [1988] *1993,* under the following provisions—

(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

(B) section 4051 (relating to retail tax on heavy trucks and trailers),

(C) section 4061 (relating to tax on trucks and truck parts).

(D) section 4071 (relating to tax on tires and tread rubber),

(E) section 4081 (relating to tax on gasoline),

(F) section 4091 (relating to tax on lubricating oil), and

(G) section 4481 (relating to tax on use of certain vehicles),

(2) LIABILITIES INCURRED BEFORE OCTOBER 1, 1988.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, [1988,] *1993,* and before July 1, [1989,] *1994,* and which are attributable to liability for tax incurred before October 1, [1988,] *1993,* under the provisions described in paragraph (1).

* * * * * * *

(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, [1988,] *1993,* to meet those obligations of the United States heretofore or hereafter incurred which are—

(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982, [or]

[(C) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.]

(C) authorized to be paid out of the Highway Trust Fund under the Surface Transportation and Uniform Relocation Assistance Act of 1987, or

(D) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any

amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on the date of the enactment of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(2) TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

(i) the amounts paid before July 1, [1989], *1994,* under—

(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes), and

(IV) section 6427 (relating to fuels not used for taxable purposes), on the basis of claims filed for periods ending before October 1, [1988,] *1993,* and

(ii) the credits allowed under section 34 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, [1988,] *1993,* (or with respect to qualified diesel-powered highway vehicles purchased before January 1, [1988] *1993.*

* * * * * * *

(3) 1988 FLOOR STOCKS REFUNDS.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, [1989,] *1994,* under section 6412(a).

(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

(A) TRANSFER TO BOAT SAFETY ACCOUNT.—

(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, [1988.] *1993.*

* * * * * * *

(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

(1) * * *

* * * * * * *

(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1,

[1988] *1993* (including capital expenditures for new projects) in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964.

* * * * * * *

(5) PORTION OF CERTAIN TRANSFERS TO BE MADE FROM ACCOUNT.—

(A) IN GENERAL.—Transfers under paragraphs (2), (3), and (4) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred under this section to the Highway Account (after the application of paragraph (2)) and the Mass Transit Account; except that any such transfers to the extent attributable to section 6427(g) shall be borne only by the Highway Account.

(B) HIGHWAY ACCOUNT.—For purposes of subparagraph (A), the term "Highway Account" means the portion of the Highway Trust Fund which is not the Mass Transit Account.

* * * * * * *

SECTION 201 OF THE LAND AND WATER CONSERVATION FUND ACT OF 1965

TRANSFERS TO AND FROM LAND AND WATER CONSERVATION FUND

SEC. 201. (a) * * *

(b) There shall be paid from time to time from the Land and Water Conservation Fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, [1989,] *1994*, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, [1988;] *1993;* and

(2) 80 percent of the floor stocks refunds made before October 1, [1989,] *1994*, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats.

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